

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

ANTHONY FATHI,

Petitioner,

No. C 08-01548 JSW

v.

BEN CURRY, Warden,

Respondent.

**SECOND ORDER TO SHOW
CAUSE**

On May 8, 2008, this Court issued an Order to Show Cause to Respondent in the above captioned case to file and serve on Petitioner Anthony Fathi ("Petitioner") within sixty days, an answer conforming in all respects to Rule 5 of the Rules Governing Section 2254 Cases, showing cause why a writ of habeas corpus should not be issued. The Court further ordered Respondent to file with the answer and serve on Petitioner a copy of all portions of the administrative record that are relevant to a determination of the issues presented by the petition for a writ of habeas corpus. Respondent has not complied with the Court's order.

On November 7, 2008, Petitioner filed a motion for judgment on the pleadings in light of Respondent's failure to answer or move to dismiss. However, the Order to Show Cause did not direct Petitioner to serve a copy of the Order to Show Cause and the petition on Respondent. Therefore, it is not clear whether Respondent ever received notice of the Court's order. The Court HEREBY ORDERS Petitioner to serve by certified mail a copy of this Order, the first Order to Show Cause dated May 8, 2008, and the petition and all attachments thereto upon


1 Respondent by no later than November 21, 2008. Petitioner shall file a proof of service by no
2 later than November 25, 2008.

3 The Court FURTHER ORDERS Respondent to file and serve on Petitioner, by no later
4 than January 16, 2009, an answer conforming in all respects to Rule 5 of the Rules Governing
5 Section 2254 Cases, showing cause why a writ of habeas corpus should not be issued.
6 Respondent is ORDERED to file with the answer and serve on Petitioner a copy of all portions
7 of the administrative record that are relevant to a determination of the issues presented by the
8 petition. Respondent is on notice that failure to comply with this Court's Second Order to Show
9 Cause may result in the Court granting the Petition.

10 The Court strikes Petitioner's motion for judgment on the pleadings. This Order is
11 without prejudice to Petitioner refileing such motion if Respondent fails to file an answer or
12 move to dismiss by January 16, 2009.

13 **IT IS SO ORDERED.**

14
15 Dated: November 10, 2008



JEFFREY S. WHITE
UNITED STATES DISTRICT JUDGE